IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.8.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Contempt Petition No.563 OF 2006

H.Manimekalai .. Petitioner

vs.

S.Suganya
Chief Education Officer,
Government Higher Secondary School
for Boys Complex,
rishnagiri-635 001 .. Respondent

This Contempt Petition has been filed under Section 10 & 12 of the Contempt of Courts Act, 1971, to punish the respondent for her willful disobedience of the order, dated 10.4.2006, made in W.P.No.39154 of 2004, on the file of this Court.

For petitioner : Mr.T.Arulraj
For respondent : Mrs.Datchayani
Government Advocate (Writ)

O R D E R

The contempt petition has been filed under Section 10 & 12 of the Contempt of Courts Act, 1971, to punish the respondent for her willful disobedience of the order, dated 10.4.2006, made in W.P.No.39154 of 2004, on the file of this Court.

2. It has been stated by the petitioner that she is a destitute lady deserted by her husband. She had qualified as a Tailoring Instructor and had worked as a part time Tailoring Instructor in Government Schools for over two years. During the year, 1990, the second respondent had conducted an interview for selecting permanent Tailoring Instructors for appointment in Government Schools. Though the petitioner was 36 years of age, she was eligible to be sponsored for the interview on account of the age relaxation granted in her favour, as she was in part time service. However, the District Employment Officer, Krishnagiri, the third respondent in the writ petition, was unwilling to consider the name of the petitioner to be sponsored for the selection stating that the petitioner was over aged. Therefore, the petitioner had filed O.A.No.3106 of 1990, before the Tamil Nadu Administrative Tribunal, Chennai, praying for a necessary direction to the authorities concerned to sponsor her name for the selection.

3. As per the order passed by the Tribunal, the Chief Educational Officer, Dharmapuri, had interviewed the petitioner. However, before the results of the interview were published, the Tribunal had passed the final order, dated 6.10.1990, directing the respondents therein to consider the name of the petitioner for appointment by relaxing the age limit. The Chief Educational Officer, Dharmapuri, by his letter, dated 4.4.1992, had informed the petitioner about the inclusion of her name in the selection list of Tailoring Instructors and had stated that the results would be communicated after obtaining the necessary clarification from the Director of Education. However, the results were not published.

4. On verification, it was learnt that the post of Tailoring, Drawing and Physical Educators were abolished and that no appointments would be made based on the interview already conducted. Thereafter, the petitioner had not renewed her registration in the Employment Exchange till the year 2002. In the year 2004, the Government of Tamil Nadu had decided to appoint Tailoring Instructors in Government Schools without age limit. In the meantime, the erstwhile Dharmapuri District had been bifurcated into Dharmapuri and Krishnagiri Districts. Since the petitioner was residing within the newly formed Krishnagiri District, she had approached the respondent requesting that she may be considered for appointment as a Tailoring Instructor based on the earlier selection made in the year 1992. Since the respondent had stated that the name of the petitioner had to be sponsored through the Employment Exchange, she had approached the concerned Employment Officer. However, the petitioner had been informed that since she had not renewed her registration in the Employment Exchange between the year 1992-2002, the petitioner was not eligible to be sponsored for the said post due to lack of seniority.

5. Therefore, the petitioner had filed a writ petition before this Court in W.P.No.39154 of 2004, praying for a direction to the respondent to consider her name for the appointment to the post of Tailoring Instructor on the basis of the selection made during the year 1990-1991, based on the interview that had been conducted.

6. This Court, by an order, dated 10.4.2006, had directed the first respondent to consider the claim of the petitioner for being appointed to the post of Tailoring Instructor in the Government Schools in Krishnagiri District and pass appropriate orders, within a period of eight weeks from the date of receipt of the said order.

7. However, the respondent by her proceedings, dated 13.6.2006, had rejected the request of the petitioner stating that her name cannot be considered for appointment, since she was not sponsored by the Employment Exchange. Thus, the respondent had committed contempt by willful disobedience of the order passed by this Court, on 10.4.2006, in W.P.No.39154 of 2004.

8. In the counter-affidavit filed by the respondent, it has been stated that prior to 11.6.2004, the age limit for the appointment of Sewing Mistress in Government High/Higher Secondary Schools was 35 years. As per G.O.Ms.No.59, Education (M1) Department, dated 12.6.2004, the ceiling of upper age limit was abolished, with effect from 12.6.2004. During every academic year, the appointments are made by the Chief Educational Officer for the existing vacancies coming under his/her purview by calling for the list of qualified candidates from the District Employment Office.

9. The appointments are made calculating the age as on the 1st of July every year. During the academic year 1990-1991, the list of qualified candidates for appointment as Sewing Mistress was called for by the Chief Educational Officer, Dharmapuri, from the District Employment Office, Krishnagiri. The District Employment Officer, Krishnagiri, had sponsored the list of qualified candidates in which the petitioner's name was not found, as she had crossed the age of 35 years, on 15.1.1989.

10. As per Rule 50 of The Tamil Nadu General Subordinate Services Rules, only full time temporary service rendered on a time scale of pay has to be considered for age relaxation. Since the petitioner had not been appointed under any regular time scale, the service rendered by the petitioner could not be considered for relaxation of the age limit fixed for selection to the post of Sewing Mistress.

11. During the academic year 1990-1992, the Joint Director of School Education (Higher Secondary), Chennai, had been appointed as the Co-ordinator for giving approval to the new appointments to be made by the Chief Educational Officer, after perusing all the relevant records relating to the said appointment. Since the approval had not been given for the list of candidates selected, no appointment had been made for the post of Sewing Mistress during the year 1990-1991. Since the selection list lapses on 31st May of every year, the selection list prepared during the year 1990-1991 had lapsed on 31.5.1991. No person from the said list had been appointed.

12. The orders passed by the Government of Tamil Nadu in G.O.Ms.No.59, Education (M1) Department, dated 12.6.2004, came into effect only from 12.6.2004 and since the said Government Order had no retrospective operation, it could not be applied in the case of the petitioner. However, the seniority of the petitioner in the concerned employment exchange would be based from her renewal of her registration in the year 2002. Therefore, the petitioner's seniority cannot be taken from the year 1990-1991 for giving her appointment as Sewing Mistress during the year 2004-2005.

13. The respondent had passed an order, dated 13.6.2006, only in accordance with the directions issued by this Court, by its order, dated 10.4.2006, in W.P.No.39154 of 2004. The respondent had passed appropriate orders on merits and therefore, the respondent had not committed any contempt by willful disobedience of the order passed by this Court, on 10.4.2006.

14. Based on the averments made in the affidavit filed in support of the contempt petition and the counter-affidavit filed on behalf of the respondent and based on the submissions made by the learned counsels appearing on behalf of the petitioner as well as the respondent, this Court is of the considered view that there is no merit in the contempt petition as the petitioner had failed to show that the respondent had willfully disobeyed the order passed by this Court, on 10.4.2006, in W.P.No.39154 of 2004.

15. From the records available before this Court, it is seen that the respondent had passed an order, on 13.6.2006, on merits and in accordance with law considering the claims made by the petitioner for appointment as a Sewing Mistress. However, if the petitioner is aggrieved by the reasons stated in the order, dated 13.6.2006, passed by the respondent rejecting her claims, it is open to the petitioner to agitate the matter before the appropriate forum in a manner known to law. In such circumstances, the above contempt petition stands dismissed. Consequently, connected Sub Application No.198 of 2006 is closed. No costs.

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